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Henry VIII's Breach with Rome and his Subsequent Failed Attempts to Prevent the Progress of Protestantism in England

Henry VIII's breach with Rome made up a fundamental constitutional change in the relationships between State and Church in England. While actuating the process that was designed to break the link between the English Church and the Apostolic See, Henry VIII willingly invoked the cases that in the history of England demonstrated the control as exercised by the English monarchs of the past over the ecclesiastical affairs. Henry VIII's argumentation was aimed at justifying what he himself planned to do with the English *Ecclesia*. In fact king Henry's argumentation was rather dishonest if not perfidious. It was D.L. Keir who emphasized that none of Henry VIII's predecessors had ever claimed supremacy over the Church. On the contrary the entire history before the volta of Henry VIII confirmed autonomy of the Church and proved that the Church governed herself by canon law. This law was produced by papal legislation, mostly by the Pope's decretals, but also by the provisions issued by the Convocations or Synods of the English clergy convened in York and Canterbury. Thus canon law did not owe its validity to the Crown although in the past the Crown employed sometimes its own machinery to enforce the canon law in order to facilitate the Church's administration of the affairs that were left within the Church's competence.¹

¹ D.L. Keir, *The Constitutional History of Modern Britain, 1485–1537*, Adam and Charles Black, Soho Square, London 1948, p. 48.

While discussing the above outlined problem, G.R. Elton emphasized that before the Reformation the Crown of England exercised a large power in and over the Church. Therefore the changes introduced by Henry VIII and his parliament might be viewed in part only as “a formal confirmation of past developments.”² Elton however is right to observe that such thesis will always “be variously assessed by different people and parties.”³ Anyway he makes a remark that under Henry VIII the Church “was turned into an adjunct of the State, removed from the spiritual and jurisdictional supremacy of the pope, and subjected to a similar dominion exercised by the Crown.”⁴ Elton also took a note of the pre-Henrician canonical independence of the Church in England. Wrote he: “Henry VIII’s predecessors may have got episcopal sees for their nominees, but they had never been able to say what should be the law of the Church and what its doctrine.”⁵

It may be interesting to recall how the State–Church relationships worked in practice before the Henrician era. They were based on practically worked out compromise that however did not challenge autonomy of the Church. Let us pick up one of the examples that might be illustrative of that. The ecclesiastical administration was vested in the hands of Episcopal hierarchy. Thus the Church was formally independent in appointing its members to ecclesiastical posts. But the compromise consisted in this that on occasion when such appointments were made, the letter of recommendation which was issued by the Crown with reference to a specific individual – was taken into consideration by the *Ecclesia*. Besides, when appointed, the ecclesiastic had to take a dual oath: that of fidelity above all to the Pope, but also to the King. Anyway, the obvious truth was respected: it was the truth about clergy’s dual allegiance. They, as members of the English Church, were subject to the Crown. But they were also the members of international organization “that transcended the material boundaries and had a centre in the See of Rome.”⁶ So in a certain sphere of things the clergy obeyed the authority different than that emanating from the Crown and before Henry VIII’s reign this did not raise controversy.

We may put a question: what, before Henry VIII, was typically left within the authority of the Church? The answer would be: defining the faith, defining the nature of heresy, defining the form in which the ritual was expected to be exercised. In addition it was also the Church which laid down the rules on which moral health of the subjects depended.⁷ The Church, through its Tribunals, could try certain cases of the clergy, but also those of laymen. Besides, from the ecclesiastical tribunals there lay the appeal to the Papal *Curia*.

² G.R. Elton, *The Tudor Constitutional Documents and Commentary*, Cambridge University Press, Cambridge 1972, p. 318.

³ *Ibidem*.

⁴ *Ibidem*.

⁵ *Ibidem*, p. 333.

⁶ D.L. Keir, *The Constitutional...*, p. 48.

⁷ *Ibidem*.

It is true however that in the course of time the rivalry embarked upon by the secular courts vis-à-vis the ecclesiastical courts considerably limited the spectrum of the ecclesiastical jurisdiction from the area of the law of contracts or the law referring to harms caused by delicts.

At the time when Henry VIII embarked upon launching his anti-popish campaign, his moves found a fertile soil in anticlerical and anti-papal tendencies detectable among the English gentry and to some extent among other social strata. These tendencies had various roots. They could partly draw upon the reminiscence of English Lollardy, partly on Lutheranism-generated novelties reaching England with the wave of new ideas brought by continental Renaissance. They also derived from a humanist criticism of the Church, showing the Church's weaknesses of the era, which later the Council of Trent (1545–1563) tried to cope with.

In order to be more detailed about the grievances against the clergy, let us say that they were formulated against the wealthy bishops who often performed the State functions instead of shepherding their flocks. The blames were also laid on sometimes ignorant lower clergy and on excessive fees collected from the laity for variety of spiritual services, for instance for probating the wills. The Church was also criticized for the extended jurisdiction interfering in certain secular matters.⁸

⁸ In this respect it was both through parliamentary legislation as well as through voluntary concessions of the *Ecclesia* herself that this jurisdiction began to be limited. The criticism referred also to certain extra-privileging of the clergy. In that respect the intense attack was launched on the *benefit of clergy* and on the *sanctuary*. The *benefit of clergy* derived from the medieval tradition of privileging the clergy in the area of penal law. Everyone who proved to be *clericus* could count on being subjected to milder punishment, rather than of penitential nature provided that he committed felony for the first time. The lay individuals, on such occasion, might be subjected to death penalty. In the early times the method that was applied to check whether the individual accused of felony was really a *clericus* consisted in subjecting him to the *reading test* since originally only the clergy were expected to be those who could read and write. In the course of time, when ever larger number of individuals, not necessarily the clergy, could read, the *benefit of clergy* was exploited to mitigate the severity of common law. The accused who proved that he could read had a chance to avoid death penalty for the felony that he committed for the first time in his life. He would be subjected to the *reading test*. The representative of the bishop who was always present at the assize, would then be asked: *legit ut clericus*. He would answer *legit* (if the individual successfully passed the test). The accused was then subjected to milder punishment but simultaneously on his body there was branded a special sign in order to prevent him from resorting to the *benefit of clergy* the second time. In the old sources the mention may be found that the accused who was illiterate used to learn the so called *neck verse* (which was a certain fragment of the Bible) by heart to fulfill the requirements of the *reading test*. For more details on that see: K. Baran, *Strony procesowe przed angielskimi sądami karnymi doby Tudorów i wczesnych Stuartów (do roku 1640)*, Uniwersytet Jagielloński, Kraków 1994, pp. 70, 113–115.

As regards *sanctuary* it was a device invented by the medieval Church. It was designed to protect the offenders against the brutality of the medieval system of penalties such as death penalty and the mutilation. The *sanctuary* was the place (usually it was a church) in which the offender could seek a refuge. No one could get him out of the place without committing a sacrilege. The Church agreed upon giving him to the secular jurisdiction on condition that neither death penalty, nor mutilation be inflicted on him. For more details see *Encyklopedia Katolicka*, Towarzystwo Naukowe KUL, Lublin 1973, entry – *azyl*.

In some blames creeping protestantism was detectable. Thus the Church was criticized for encouraging excessive reference to reliquaries, paintings, images etc. Also the monasteries were sharply criticized for sometimes poor discipline and poor administration of their property.

This criticism that had an anti-clerical tone could easily turn into that of anti-papal tone and could lead not so much to the reform but to the breach. The Parliament that was particularly remembered for the critical line that it followed vis-à-vis the Church was that of 1515. Its criticism was not left unnoticed by Henry VIII. It must have occurred to him that he might exploit this kind of tendencies that penetrated the houses while later adopting the respective steps aimed at depriving the Church of its autonomous status.

In general we can say that in the ever more centralized state, like that which was developing under Tudors and aspired at exercising omnicompetent control the Church with its wealth and liberties that it enjoyed could not escape criticism.⁹

In the entire anti-clerical climate one extra factor perhaps was at work. It seems that in England the old aristocracy that was destroyed in the War of the Roses was replaced by the *nouveau riche* elite which were less attached to the traditional values and respect to the Church. Consequently these groups were more vulnerable to the revolting news arriving from the Continental countries where the Reformation made some progress.

In this specific atmosphere the King could successfully lay the respective blows upon the *Ecclesia* particularly in so called Reformation Parliament that functioned for seven years between 1529 and 1536.¹⁰ The milestone in the implementation of this project was the submission of the clergy in 1531. The act of submission followed the earlier blames laid on the entire clergy for their commission of *praemunire*. The latter was a particularly vaguely outlined type of offence which more or less amounted to accepting by someone the jurisdiction other than that exercised by the domestic English agencies. In case of English clergy it was a particularly perfidious blame because it accused them of not reacting to Cardinal Wolsey being equipped by the Apostolic See with the status of *legatus de latere*, i.e. with the competence granted to him by the Pope – to settle the case of King's marriage. The point was that this status was granted to Wolsey with full consent of the King who hoped that the final decision of Rome might be in his favour.

The clergy had to atone for their *praemunire* by paying enormous donation to the Crown. What was soon expected from the clergy was their recognition of the King's supremacy over the Church of England. On that occasion the King demanded "that they should accept him as supreme head of the Church and clergy of England

⁹ G.R. Elton, *The Tudor...*, p. 318.

¹⁰ An interesting monograph was devoted to the Reformation Parliament by S.E. Lehmborg, *Reformation Parliament 1529–1536*, Cambridge University Press, Cambridge 1970, see particularly the final chapter, pp. 249–256.

and recognize his claim to have cure of souls. In the outcome they altogether ignored the second and severely qualified the first by addition of the words as far as the law of Christ allows".¹¹ This reservation was later totally ignored in the clause which introduced the supremacy of the King by the Act of Parliament in 1534. This put an end to the autonomy of the English Church.

Step by step the King forced the Church to totally surrender its legislative independence. He invaded papal powers which previously controlled the canons. The papacy was also deprived of its major source of revenue from England (*the Act in Restraint of Annates*). Furthermore, King's word became final in appointments to sees and abbacies. In that respect the idea of compromise was dropped. The *Act of Appeals* (1533) did away with "the judicial links between England and the Court of Rome."¹²

Such was the situation of the English *Ecclesia* when in 1534 the King smuggled through the English Parliament the aforementioned *Act of Supremacy*. By doing this he declared himself the head of the Church of England. As has been said the reservation "as far as the law of Christ allows" that the clergy dared make while recognizing the King's supremacy soon after the *praemunire* affair, was omitted this time.

In the propaganda generated by the monarch and his milieu it was emphasized that basically (apart from the breach with Rome) the major lines of the faith remained intact. The emphasis was laid on continuity. But there lay in that a large proportion of hypocrisy. In fact the change that happened was fundamental. The English Church lost the autonomy whose guarantee was the link of this Church with Rome. Thus, the Christian faith as professed in England was exposed to capricious invasions made by the royal power, and later by the power of Parliament, in various areas, in the area of doctrine, in the area of rite, in the area of practical exercise of *cura pastoralis* as well as in the proportion of sacraments.

And yet in the course of few years that followed, the monarch did a lot to emphasize that, apart from the breach with Rome, the principles of faith remained as they were before. His ambition to control *Ecclesia* did not allow him to tolerate in his Church the novelties of the protestant nature. The King was determined to treat such novelties as heresy, of course he himself deciding what heresy was.

Though the decisions on the vital problems of religion were really, at least at that time, the King's decisions the monarch nevertheless preferred to smuggle them through parliaments which – particularly in the matter of faith – were vulnerable to the monarch's wish. The parliaments thus accepted everything what was submitted to them. The opposition was but small. It was sometimes detectable but its proportion was of no significance.

By the end of the 1530s the monarch must have found that once the breach with Rome had been done, it was not so easy to prevent the doctrine from the invasion of dangerous modifications. The risk of the latter led the monarch to initiate

¹¹ G.R. Elton, *The Tudor...*, pp. 330–331.

¹² *Ibidem*.

the legislation of 1539 that focused on so called uniformity of belief. This legislation made the so called Six Articles binding on the English subjects of the King. The discussed Articles prevented the interpretation of the principles of faith in the way that might smuggle protestant novelties. In consequence the doctrine that was accepted seemed to be rigidly orthodox. The Articles therefore emphasized that

in the most blessed sacrament of the altar, by the strength and efficiency of Christ's mighty word... is present really, under the form of bread and wine, the natural body and blood of our Savior Jesus Christ... and that after the consecration there remaineth no substance of bread or wine, nor any other substance but the substance of Christ, God and man...¹³

Also, according to the Six Articles, no one could dare challenge other orthodox points. Therefore, it was forbidden to claim that the priests could marry¹⁴ or that the faithful should resign from *aurical* confession (confession by ear).¹⁵ Furthermore, those disobedient – who would raise objections to these orthodox points – were subject to severe punishments. The latter might amount to such penalties that were inflicted even for felony, and the felony was that category of offenses that were threatened with death penalty. In this context let us emphasize also that denying the King's title of Supreme Head of the Church of England was threatened with the penalty provided for high treason. This meant the death penalty in aggravated form, i.e. particularly cruel.

A few years later the fear that the faith might follow the lines different from those promoted by the royal supremacy led to the introduction, in 1543, what was a new exposition of doctrine. It was based on the *Bishop's Book* that was published earlier. The teaching was issued under the name of the *Necessary Doctrine and Erudition for any Christian Man*. In brief, the document was commonly referred to as the *King's Book*. And characteristically enough, again the King sought the support for it in Parliament although the *Book* was prepared by the monarch and approved of by the Convocation.¹⁶

And indeed *King's Book* was confirmed by the act of Parliament. The large involvement of parliamentary mechanism in smuggling what the monarch thought advisable in the *niveau* of creed and doctrine was formative of the growing conviction of the members of the houses that they themselves were indispensable component whenever any action intervening in the doctrine was taken. This, sooner or later, led to the formulating of wider claims in that respect as raised by the houses. Thus we

¹³ *Ibidem*, p. 391.

¹⁴ Thirdly, that priests after the order of priesthood received as afore may not marry by the law of God. *Ibidem*.

¹⁵ Sixthly, that auricle confession be expedient and necessary to be continued, used and frequented, in the Church of God. *Ibidem*.

¹⁶ D.L. Keir, *The Constitutional...*, p. 70.

may say that the king had asserted his ecclesiastical supremacy in Parliament. David Keir rightly observed that in the future it might well be maintained that he could exercise it [i.e. the supremacy, K.B.] nowhere else.¹⁷ No wonder that in the future, under the Stuarts, the parliaments considered themselves to be the right agency to decide also on the points of the doctrine.

However so long as Henry lived wider claims were not raised. Upon Henry VIII's death his son Edward succeeded to the throne. On behalf of him his protector Somerset operated. The orthodox line previously adopted in religious matters seemed to loosen. The Parliament repealed *Six Articles*. Wrote Keir:

The end of the Six Articles, moreover, opened the way for innovation in doctrine and ritual. The removal of constraint reduced the Church to a chaos in which priests and parishes did much as they liked. Convocation expressed the desire to permit to the laity communion under both kinds and to remove the laws prohibiting clerical marriage. It was by Parliament and Council that the changes were effected. Statutes dealt with communion in 1548 and clerical marriage in 1549. In 1548 the Council ordered the removal of images and the disuse of candles, holy water, and other aids to devotion.¹⁸

On the other hand the ecclesiastical courts were still considered competent in some matters such as succession, marriage or heresy. In cases of the latter the punishment was however inflicted by secular courts while the mere confirming the case of heresy was what remained within the ecclesiastical competence.

¹⁷ *Ibidem*, pp. 70–71.

¹⁸ *Ibidem*, p. 73. Keir refers for the details to G.W. Child, *Church and State under the Tudors*, Longmans, Green and Co., London–New York 1890.